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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

RYAN R. WEST and COMMONWEALTH
PROPERTY ADVOCATES,

Plaintiffs,

v.

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.; HSBC
BANK USA, N.A.; and JOHN DOES OF
UNKNOWN NUMBER.

Defendants.

Case No. 2:10-cv-01047

NOTICE OF REMOVAL

Judge Dee Benson

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. § 1441 and 1446, Defendant Mortgage Electronic Registration Systems, Inc. ("MERS") hereby removes to this Court the above-referenced action.

1. On August 31, 2010, Plaintiffs Ryan R. West and Commonwealth Property Advocates (“Plaintiffs”), commenced an action in the Third Judicial District Court of Salt Lake County, West Jordan Department, State of Utah, entitled *Ryan R. West and Commonwealth Property Advocates v. Mortgage Electronic Registration Systems, Inc., et al.*, case number 100418650 (the “State Court Action”).

2. On September 28, 2010 Plaintiffs filed an Amended Complaint.

3. The Amended Complaint was served on MERS on October 15, 2010 (“Plaintiff’s Complaint”).

4. Pursuant to 28 U.S.C. § 1446(a), MERS has attached as Exhibit A copies of all process, pleadings and orders in its possession served by or on MERS in the State Court Action.

5. The United States District Court for the District of Utah has original jurisdiction over this action pursuant to 28 U.S.C. § 1332, because the Plaintiff and the Defendants are each completely diverse and the amount in controversy exceeds \$75,000.00. Diversity of citizenship requires that each plaintiff be a domiciliary of a different state from each defendant. *E.g., Salt Lake Tribune Pub. Co., LLC v. AT&T Corporation*, 320 F.3d 1081, 1096 (10th Cir. 2003). Domicile, in the context of legal entities, is generally determined by where the entity is incorporated, registered, or has its principle place of business. *E.g., MacGinnitie v. Hobbs Group, LLC*, 420 F.3d 1234, 1239 (11th Cir. 2005).

6. Here the parties are completely diverse, because the Plaintiff Commonwealth Property Advocates is incorporated in and has its principle place of business in the state of Utah,

while each of the Defendants are citizens of states other than Utah for purposes of diversity jurisdiction.

7. Mortgage Electronic Registration Systems, Inc., is a Delaware corporation with its main office in Virginia, and is therefore a citizen for purposes of diversity jurisdiction of Delaware or Virginia. *E.g., MacGinnitie*, 420 F.3d at 1239 (11th Cir. 2005).

8. HSBC Bank USA, N.A., is a corporation with its principal place of business in New York, and is therefore a citizen for purposes of diversity jurisdiction of New York. *E.g., MacGinnitie*, 420 F.3d at 1239 (11th Cir. 2005).

9. Furthermore, the amount in controversy exceeds \$75,000.00, because the Plaintiff's Complaint seeks to extinguish a security interest held by the Defendants as security for repayment of a mortgage loan in the principle sum of \$468,000.00. *See, e.g.,* Exhibit B to Plaintiff's Complaint and ¶ 36. In other words, the Plaintiff is seeking to extinguish an obligation owed to the Defendants in the principal amount of \$468,000.00, and is therefore seeking these amounts as damages, based upon the allegations in the Complaint. *See id.* at ¶¶ 66-73, ¶¶ 74-84; *see also, e.g., Hartford Ins. Group v. Lou-Con, Inc.*, 293 F.3d 908, 911 (5th Cir. 2002) ("In an action for declaratory relief, the amount in controversy is the value of the right to be protected or the extent of the injury to be prevented.") (Internal quotations omitted).

10. This Notice is timely under 28 U.S.C. § 1446(b) because it is being filed within 30 days of receipt of the initial pleading by personal service by Defendant MERS.

11. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal with its attachments will be promptly served on Plaintiffs' counsel, and notice thereof will be filed with the

clerk of the Third Judicial District Court of Salt Lake County, West Jordan Department, State of Utah.

WHEREFORE, MERS hereby removes Third Judicial District Court of Salt Lake County, West Jordan Department, Case No. 100418650 to the United States District Court, District of Utah, Central Division.

DATED this 22nd day of October, 2010.

FABIAN & CLENDENIN, P.C.

/s/Felicia B. Canfield

Attorneys for Mortgage Electronic Registration
Systems, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of October, 2010, I caused a copy of the foregoing NOTICE OF REMOVAL to be electronically filed using the Court's CM/ECF system, and to be served via U.S. mail, postage prepaid, this 22nd day of October, 2010, to:

E. Craig Smay
174 E. South Temple
Salt Lake City, UT 84111
Attorney for Plaintiffs

/s/ Felicia B. Canfield